

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

<p>In the Matter of: JIMMY ENRIQUEZ, Respondent</p>	<p>HUDALJ 89-1376-DB</p>
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Eino Zapata, Esquire
For the Respondent

Dane M. Narode, Esquire
For the Department

Before: Robert A. Andretta
Administrative Law Judge

INITIAL DETERMINATION

Jurisdiction and Procedure

This proceeding arose as a result of a proposal by the Department of Housing and Urban Development ("the Department" or "HUD") to debar Jimmy Enriquez from further participation in primary covered transactions and lower tier covered transactions as either a participant or principal at HUD and throughout the Executive Branch of the federal government, and from participating in procurement contracts with HUD, for a three-year period from the date of HUD's notice letter, June 23, 1989. Such debarment is authorized by the regulations codified at Title 24, Code of Federal Regulations, Part 24, and jurisdiction is thereby obtained.

The Department's action was based upon its allegations regarding Respondent's actions as president of New Century Mortgage, Inc. ("New Century") in that he failed to abide by the terms of a Settlement Agreement that he entered into with HUD on June 9, 1988. HUD also alleges that Respondent attempted to mislead the Department concerning his compliance with the Settlement Agreement.

In accordance with my Notice Of Hearing And Order of August 8, 1989, the Department filed its Complaint on September 8, 1989. It alleges that Respondent held property in Texas on which there was HUD-FHA insurance. The property was foreclosed upon, and HUD sustained a loss of \$27,360.80 on the sale of the property. On June 9, 1989, the Department accepted, through the subject Settlement Agreement, Respondent's offer to indemnify the Department for its losses on the mortgage. Respondent made the first of eight agreed payments in June, 1988, but failed to make any payments afterwards. On enquiry from the Department, Respondent is alleged to have claimed orally that all payments had been made, whereas, according to the Department, he had never made more than the first payment. The government states that Respondent's failure to comply with the terms of the Settlement Agreement is "an action of a serious and compelling nature affecting the responsibility of Respondent and is thus cause for debarment." See 24 CFR 24.305(b)(1), (c)(3), and (d).

On June 23, 1989, James E. Schoenberger, General Deputy Assistant Secretary for Housing, issued the Notice of Suspension that is the subject of this proceeding, and Respondent, through counsel, made timely request for a hearing on the proposed debarment.

Respondent's Answer to the Complaint was due on October 8, 1989, in accordance with my Notice Of Hearing And Order dated August 8, 1989. Since by October 13, 1989, Respondent had failed to file an Answer or evidence, he was on that date ordered to file his Answer by October 27, 1989, or by that date show cause why a summary decision should not be issued in favor of the government. The Order To Show Cause also stated that failure by the Respondent to respond to it in a timely fashion would constitute consent to a summary decision in favor of the government.

The Respondent has failed to respond to the Order To Show Cause and has, therefore, consented to the entry of the following:

Conclusion and Order

The Department has shown a compelling inference that Jimmy Enriquez is lacking in the requisite responsibility to do business with HUD by showing that he has failed to abide by the terms of a Settlement Agreement with the Department, and, further, that he falsely claimed that he had complied with the Agreement. Moreover, by his continued silence in spite of orders to answer the charges against him, Respondent has consented to

the entry of a summary decision against him. Accordingly, Respondent is ORDERED debarred from participating in primary covered transactions and lower tier covered transactions as either a participant or a principal at HUD and throughout the Executive Branch of the federal government and from participating in procurement contracts with HUD for a period of three years from the date of Notice of proposal of this action, June 23, 1989.

Robert A. Andretta
Administrative Law Judge
U.S. Department of Housing
and Urban Development
451 7th Street, S.W., Suite 2156
Washington, D.C. 20410

Dated: November 6, 1989